

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE R.BASANT

TUESDAY, THE 19TH DECEMBER 2006 / 28TH AGRAHAYANA 1928

Crl.MC.No. 4047 of 2006()

AGAINST THE JUDGEMENT/ORDER IN BA.5976/2006
CRIME NO.306/06 OF KALPANCHERRY POLICE STATION.
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PETITIONER: 5TH ACCUSED

ERANJIKKAL FAIZAL BABU,
S/O.HASSANKUTTY ALIAS KUNHAPPA HAJI,
THEKKEN KUTTOOR AMSOM, PULLOOR DESOM,
TIRUR TALUK, MALAPPURAM DISTRICT.

BY ADV. SRI.K.M.SATHYANATHA MENON

RESPONDENTS: COMPLAINANT & STATE

1. CIRCLE INSPECTOR OF POLICE,
VALANCHERY.
2. STATE OF KERALA, REPRESENTED BY
THE PUBLIC PROSECUTOR, HIGH COURT OF KERALA,
ERNAKULAM.

BY PUBLIC PROSECUTOR SRI.K.A. AKBAR.

THIS CRIMINAL MISC. CASE HAVING COME UP FOR ADMISSION
ON 19/12/2006, THE COURT ON THE SAME DAY PASSED THE
FOLLOWING:

R. BASANT, J.

CRL.M.C.NO. 4047 OF 2006

Dated this the 19th day of December, 2006

ORDER

The petitioner is the 5th accused and faces the allegations, inter alia, under Sec.376 of the IPC. He was enlarged on bail as per order dated 19/10/2006 in B.A.No.5976/06 subject to conditions. The conditions oblige him to make himself available for interrogation before the Investigating Officer on all Wednesdays between 10 a.m. and 11 a.m. till 25/10/2006 and thereafter, on the first working day of every month till the trial is complete. The investigation is not completed. The further conditions are that the petitioner should not leave the State of Kerala till the trial is over and that he must surrender his passport which shall be retained by the Investigating Officer until the trial is over.

2. The learned counsel for the petitioner submits that the investigation is not complete yet and the petitioner, who is employed abroad and has to make visits to his place of employment abroad, would be deprived of his livelihood if he

were to remain in India till the trial is over. The learned counsel for the petitioner, in these circumstances, prays that the conditions imposed may be modified. It is further undertaken that the petitioner shall make himself available for interrogation before the Investigating Officer or the court as and when directed by the court. Appropriate conditions may be imposed to ensure his presence for the purpose of investigation/trial.

3. Having considered all the relevant inputs, I am persuaded to agree that the conditions imposed can be modified subject to appropriate safeguards.

4. This petition is, in these circumstances, allowed in part. Following further directions are issued:

(i) The petitioner shall comply with condition No.(b) till 25/1/07. Thereafter, the petitioner shall make himself available before the Investigating Officer or the court concerned on condition that notice requiring his presence before the Investigating Officer/court is served on one of the sureties to be specified by the petitioner.

(ii) The passport issued to the petitioner shall be released to him on condition that he shall produce the same before the

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court as and when directed.

(iii) The petitioner shall execute a bond for Rs.1,00,000 (Rupees one laksh only) with two solvent sureties each for the like sum undertaking to comply with the above further directions.

Sd/-

(R. BASANT, JUDGE)

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P.S. to Judge